

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CONRADO B. FIEL,

Petitioner,

vs.

GREGORY SMITH, et al.,

Respondents.

Case No. 3:11-CV-00277-ECR-(RAM)

ORDER

Petitioner has paid the filing fee. Pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts, the court has reviewed his petition for a writ of habeas corpus. Respondents will need to file an answer or other response to the petition.

Petitioner has submitted a motion for appointment of counsel. Whenever the Court determines that the interests of justice so require, counsel may be appointed to any financially eligible person who is seeking habeas corpus relief. 18 U.S.C. § 3006A(a)(2)(B). “[T]he district court must evaluate the likelihood of success on the merits as well as the ability of the petitioner to articulate his claims pro se in light of the complexity of the legal issues involved.” Weygandt v. Look, 718 F.2d 952 (9th Cir. 1983). There is no constitutional right to counsel in federal habeas proceedings. McCleskey v. Zant, 499 U.S. 467, 495 (1991). The factors to consider are not separate from the underlying claims, but are intrinsically enmeshed with them. Weygandt, 718 F.2d at 954. After reviewing the petition, the court concludes that appointment of counsel is not warranted in this case.

1 IT IS THEREFORE ORDERED that the clerk of the court shall file the petition for a
2 writ of habeas corpus pursuant to 28 U.S.C. § 2254 and the motion for appointment of counsel.

3 IT IS FURTHER ORDERED that the clerk shall add Catherine Cortez Masto,
4 Attorney General for the State of Nevada, as counsel for respondents.

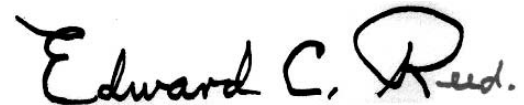
5 IT IS FURTHER ORDERED that the clerk shall electronically serve upon
6 respondents a copy of the petition. In addition, the clerk shall return to petitioner a copy of the
7 petition.

8 IT IS FURTHER ORDERED that respondents shall have forty-five (45) days from
9 the date on which the petition was served to answer or otherwise respond to the petition. If
10 respondents file and serve an answer, then they shall comply with Rule 5 of the Rules Governing
11 Section 2254 Cases in the United States District Courts, and then petitioner shall have forty-five
12 (45) days from the date on which the answer is served to file a reply.

13 IT IS FURTHER ORDERED that henceforth, petitioner shall serve upon
14 respondents or, if appearance has been entered by counsel, upon the attorney(s), a copy of every
15 pleading, motion or other document submitted for consideration by the court. Petitioner shall
16 include with the original paper submitted for filing a certificate stating the date that a true and
17 correct copy of the document was mailed to the respondents or counsel for the respondents. The
18 court may disregard any paper received by a district judge or magistrate judge that has not been
19 filed with the clerk, and any paper received by a district judge, magistrate judge, or the clerk that
20 fails to include a certificate of service.

21 IT IS FURTHER ORDERED that petitioner's motion for appointment of counsel is
22 **DENIED.**

23 DATED this 9th day of June 2011.

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26 EDWARD C. REED
United States District Judge